

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

DANIEL UMPA on behalf of himself and)
all others similarly situated,)
Plaintiffs,)
v.)
THE NATIONAL ASSOCIATION OF)
REALTORS, HOMESERVICES OF)
AMERICA, INC., BHH AFFILIATES,)
LLC, HSF AFFILIATES, LLC, THE)
LONG & FOSTER COMPANIES, INC.,)
KELLER WILLIAMS REALTY, INC.,)
COMPASS, INC., EXP WORLD)
HOLDINGS, INC., EXP REALTY, LLC,)
REDFIN CORPORATION, WEICHERT)
RELATORS, UNITED REAL ESTATE,)
HANNA HOLDINGS, INC., DOUGLAS)
ELLMAN, INC., DOUGLAS ELLIMAN)
REALTY, LLC, AT WORLD)
PROPERTIES, LLC, THE REAL)
BROKERAGE INC., REAL BROKER,)
LLC, REALTY ONE GROUP, INC., and)
HOMESMART INTERNATIONAL, LLC,)
Defendants.)

Case No. 4:23-cv-00945-SRB

ORAL ARGUMENT REQUESTED

Honorable Stephen R. Bough

**DEFENDANTS DOUGLAS ELLIMAN INC.'S AND DOUGLAS
ELLMAN REALTY, LLC'S AMENDED MOTION TO DISMISS PURSUANT TO
FEDERAL RULES OF CIVIL PROCEDURE 12(b)(2) AND 12(b)(3) FOR LACK
OF PERSONAL JURISDICTION AND IMPROPER VENUE¹**

Pursuant to Federal Rule of Civil Procedure 12(b)(2) and 12(b)(3), and in accordance with the scheduling Order of this Court, Defendants Douglas Elliman Inc. ("DEI") and Douglas Elliman

¹ Defendants Douglas Elliman Inc. and Douglas Elliman Realty, LLC file this Amended Motion only to add a request for oral argument and revise the description of the Court to Honorable Stephen R. Bough. In addition, in support of this Amended Motion, Douglas Elliman Inc. and Douglas Elliman Realty, LLC, rely upon Defendants Douglas Elliman Inc.'s and Douglas Elliman Realty, LLC's Suggestion in Support of Motion to Dismiss Pursuant to Federal Rules of Civil Procedure 12(b)(2) and 12(b)(3) for Lack of Personal Jurisdiction and Improper Venue and the Declaration of James Bryant Kirkland III (ECF 172), both of which were filed earlier today and contemporaneously with Defendants' original Motion.

Realty, LLC (“DER”), by and through their undersigned counsel, move to dismiss the Class Action Complaint (the “Complaint”) filed by Plaintiff Daniel Umpa, individually and on behalf of all others similarly situated, for lack of personal jurisdiction and improper venue. The Court lacks personal jurisdiction over DEI and DER under both the Missouri long-arm statute, Mo. Rev. Stat. § 506.500.1, and Section 12 of the Clayton Act, 15 U.S.C. § 22, and venue is further improper under that statute and the general venue statute, 28 U.S.C. § 1391. In support of this motion, DEI and DER rely upon Defendants Douglas Elliman Inc.’s and Douglas Elliman Realty, LLC’s Suggestion in Support of Motion to Dismiss Pursuant to Federal Rules of Civil Procedure 12(b)(2) and 12(b)(3) for Lack of Personal Jurisdiction and Improper Venue and the Declaration of James Bryant Kirkland III (ECF 172), both of which were filed earlier today and incorporated by reference. DEI and DER also rely on the pleadings and records on file with this Court, any other motions to dismiss and suggestions in support of same concurrently filed by any other defendant in this action, and such argument as may be presented at any hearing on this motion.

As further set forth in the Suggestion in Support of Motion to Dismiss Pursuant to Federal Rules of Civil Procedure 12(b)(2) and 12(b)(3) for Lack of Personal Jurisdiction and Improper Venue, Plaintiff cannot establish personal jurisdiction over DEI or DER in the State of Missouri under this state’s long-arm statute because DEI and DER are not subject to general or specific jurisdiction in Missouri as DEI and DER simply have no contacts with the State of Missouri whatsoever, let alone continuous and systematic contacts necessary to subject DEI or DER to general jurisdiction or purposeful contacts relating specifically to Plaintiff’s claims against DEI and DER necessary to create specific jurisdiction. For the same reasons, Plaintiff also cannot establish personal jurisdiction under Section 12 of the Clayton Act because DEI and DER do not transact any business, let alone substantial business, in this District, nor did any portion, let alone

a substantial portion, of the events giving rise to Plaintiff's claims specifically against DEI or DER occur in this District. Venue is also improper in this District because Plaintiff cannot demonstrate that DEI or DER transact substantial business here, or that a substantial part of the events giving rise to Plaintiff's claims against DEI or DER specifically arose here. For all of these reasons, DEI and DER are not subject to personal jurisdiction in Missouri or in this District, and the Complaint should be dismissed.

Respectfully submitted,

KASOWITZ BENSON TORRES LLP

/s/ Marc E. Kasowitz

Marc E. Kasowitz (Admitted *Pro Hac Vice*)

Hector Torres (Admitted *Pro Hac Vice*)

Kenneth R. David (Admitted *Pro Hac Vice*)

1633 Broadway

New York, New York 10019

Telephone: (212) 506-1700

Facsimile: (212) 506-1800

Email: mkasowitz@kasowitz.com

Email: htorres@kasowitz.com

Email: kdavid@kasowitz.com

Constantine Z. Pamphilis (Admitted *Pro Hac Vice*)

J. Michael Wilson (Admitted *Pro Hac Vice*)

1415 Louisiana, Suite 2100

Houston, Texas 77002

Telephone: (713) 220-8800

Facsimile: (713) 222-0843

Email: dpamphilis@kasowitz.com

Email: mwilson@kasowitz.com

**OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.**

Trina R. Ricketts, MO # 46080

Daniel P. Johnson, MO # 68966

700 W. 47th Street, Suite 500

Kansas City, Missouri 64112

Telephone: (816) 471-1301

Facsimile: (816) 741-1303

Email: trina.ricketts@olgetree.com

Email: daniel.johnson@ogletree.com

**ATTORNEYS FOR DEFENDANTS
DOUGLAS ELLIMAN INC. AND
DOUGLAS ELLIMAN REALTY, LLC**

CERTIFICATE OF SERVICE

The undersigned certifies that on the 26th day of February, 2024, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will provide an electronic copy to the following:

Nathan Emmons
HAGENS BERMAN SOBOL SHAPIRO LLP
455 N. Cityfront Plaza Drive, Suite 2410
Chicago, IL 60611
Phone: 708.628.4949
Facsimile: 708.628.4950
Email: nathane@hbsslaw.com

Jeannie Evans
Steve W. Berman
HAGENS BERMAN SOBOL SHAPIRO LLP
1301 2nd Avenue, Suite 2000
Seattle, WA 98101
Phone: 206.623.7292
Email: jeannie@hbsslaw.com
Email: steve@hbsslaw.com

Rio Pierce
HAGENS BERMAN SOBOL SHAPIRO LLP
715 Hearst Avenue, Suite 300
Berkeley, CA 94710
Phone: 510.725.3042
Email: riop@hbsslaw.com

Alexander Aiken
Floyd G. Short
Matthew R. Berry
SUSMAN GODFREY LLP
401 Union Street, Suite 3000
Seattle, WA 98101
Phone: 206.516.3880
Email: aaiken@susmangodfrey.com
Email: fshort@susmangodfrey.com
Email: mberry@susmangodfrey.com

Beatrice Franklin
SUSMAN GODFREY LLP
1301 Avenue of the Americas, 32nd Floor
New York, NY 10019
Phone: 212.336.8330
Email: bfranklin@susmangodfrey.com

Marc M. Seltzer
SUSMAN GODFREY LLP
1900 Avenue of the Stars, Suite 1400
Los Angeles, CA 90067
Phone: 310.789.3100
Email: mseltzer@susmangodfrey.com

Daniel H. Silverman
COHEN MILSTEIN SELLERS & TOLL PLLC
769 Centre Street, Suite 207
Boston, MA 02130
Phone: 617.858.1990
Email: dsilverman@cohenmilstein.com

Robert A Braun
Brian Johnson
Benjamin D. Brown
COHEN MILSTEIN SELLERS & TOLL PLLC
1100 New York Ave., NW, Suite 500
Washington, DC 20005
Phone: 202.408.4600
Email: rbraun@cohenmilstein.com
Email: bejohnson@cohenmilstein.com
Email: bbrown@cohenmilstein.com

ATTORNEYS FOR PLAINTIFFS AND THE CLASS

Alexander Barrett
Charles W. Hatfield
STINSON LLP
230 W. McCarty Street
Jefferson City, MO 65101
Phone: 573.556.3601
Facsimile: 573.556.3637
Email: alexander.barrett@stinson.com
Email: chuck.hatfield@stinson.com

Samantha Strauss
Georgina Inglis
Ethan Glass
COOLEY LLP
1299 Pennsylvania Avenue NW, Suite 700
Washington, DC 20004
Phone: 202.842.7800
Email: sastrauss@cooley.com
Email: ginglis@cooley.com
Email: eglass@cooley.com

Sarah M. Topol
COOLEY LLP
55 Hudson Yards
New York, NY 10001
Phone: 212.479.6000
Email: stopol@cooley.com

Beatriz Mejia
COOLEY LLP
3 Embarcadero Center, 20th Floor
San Francisco, CA 94111
Phone: 415.693.2000
Email: mejiab@cooley.com

ATTORNEYS FOR THE NATIONAL ASSOCIATION OF REALTORS

Brian C. Fries
LATHROP GPM LLP
2345 Grand Avenue, Suite 2200
Kansas City, MO 64108
Phone: 816-292-2000
Fax: 816-292-2001
Email: brian.fries@lathropgpm.com

Ian T. Hampton
FOLEY & LARDNER LLP
777 E. Wisconsin Avenue
Milwaukee, WI 53202
Phone: 414.297.4900
Email: ihampton@foley.com

Matthew T. Ciulla
Robert D. MacGill
J. Cecelia Satterthwaite
MACGILL PC
156 E. Market St., Suite 1200
Indianapolis, IN 46204
Phone: 317-961-5086
Email: matthew.ciulla@macgilllaw.com
Email: robert.macgill@macgilllaw.com
Email: cecelia.satterthwaite@macgilllaw.com

Jennifer M. Keas
Jay N. Varon
FOLEY & LARDNER LLP
Washington Harbor, 3000 K Street NW, Suite 600
Washington, DC 20007
Phone: 202.672.5399
Email: jkeas@foley.com
Email: jvaron@foley.com

ATTORNEYS FOR HOMESERVICES OF AMERICA, INC.

Brian C. Fries
LATHROP GPM LLP
2345 Grand Avenue, Suite 2200
Kansas City, MO 64108
Phone: 816-292-2000
Fax: 816-292-2001
Email: brian.fries@lathropgpm.com

Ian T. Hampton
FOLEY & LARDNER LLP
777 E. Wisconsin Avenue
Milwaukee, WI 53202
Phone: 414.297.4900
Email: ihampton@foley.com

Matthew T. Ciulla
Robert D. MacGill
J. Cecelia Satterthwaite
MACGILL PC
156 E. Market St., Suite 1200
Indianapolis, IN 46204
Phone: 317-961-5086
Email: matthew.ciulla@macgilllaw.com
Email: robert.macgill@macgilllaw.com
Email: cecelia.satterthwaite@macgilllaw.com

Jennifer M. Keas
Jay N. Varon
FOLEY & LARDNER LLP
Washington Harbor, 3000 K Street NW, Suite 600
Washington, DC 20007
Phone: 202.672.5399
Email: jkeas@foley.com
Email: jvaron@foley.com

ATTORNEYS FOR BHH AFFILIATES, LLC

Brian C. Fries
LATHROP GPM LLP
2345 Grand Avenue, Suite 2200
Kansas City, MO 64108
Phone: 816-292-2000
Fax: 816-292-2001
Email: brian.fries@lathropgpm.com

Ian T. Hampton
FOLEY & LARDNER LLP
777 E. Wisconsin Avenue
Milwaukee, WI 53202
Phone: 414.297.4900
Email: ihampton@foley.com

Matthew T. Ciulla
Robert D. MacGill
J. Cecelia Satterthwaite
MACGILL PC
156 E. Market St., Suite 1200
Indianapolis, IN 46204
Phone: 317-961-5086
Email: matthew.ciulla@macgilllaw.com
Email: robert.macgill@macgilllaw.com
Email: cecelia.satterthwaite@macgilllaw.com

Jennifer M. Keas
Jay N. Varon
FOLEY & LARDNER LLP
Washington Harbor, 3000 K Street NW, Suite 600
Washington, DC 20007
Phone: 202.672.5399
Email: jkeas@foley.com
Email: jvaron@foley.com

ATTORNEYS FOR HSF AFFILIATES, LLC

Brian C. Fries
LATHROP GPM LLP
2345 Grand Avenue, Suite 2200
Kansas City, MO 64108
Phone: 816-292-2000
Fax: 816-292-2001
Email: brian.fries@lathropgpm.com

Ian T. Hampton
FOLEY & LARDNER LLP
777 E. Wisconsin Avenue
Milwaukee, WI 53202
Phone: 414.297.4900
Email: ihampton@foley.com

Matthew T. Ciulla
Robert D. MacGill
J. Cecelia Satterthwaite
MACGILL PC
156 E. Market St., Suite 1200
Indianapolis, IN 46204
Phone: 317-961-5086
Email: matthew.ciulla@macgilllaw.com
Email: robert.macgill@macgilllaw.com
Email: cecelia.satterthwaite@macgilllaw.com

Jennifer M. Keas
Jay N. Varon
FOLEY & LARDNER LLP
Washington Harbor, 3000 K Street NW, Suite 600
Washington, DC 20007
Phone: 202.672.5399
Email: jkeas@foley.com
Email: jvaron@foley.com

ATTORNEYS FOR THE LONG & FOSTER COMPANIES, INC.

ATTORNEYS FOR KELLER WILLIAMS REALTY, INC.

Daniel Sasse
CROWELL & MORING - IRVINE
3 Park Plaza, 20th Floor
Irvine, CA 92614
Phone: 949.263.8400
Facsimile: 949.263.8414
Email: dsasse@crowell.com

ATTORNEYS FOR COMPASS, INC.

Karrie J. Clinkinbeard
Tyson Ketchum
ARMSTRONG TEASDALE LLP
2345 Grand Boulevard, Suite 1500
Kansas City, MO 64108
Phone: 816.221.3420
Facsimile: 816.221.0786
Email: kclinkinbeard@atllp.com
Email: tketchum@atllp.com

Michael A. Gehret
ARMSTRONG TEASDALE LLP
222 S. Main Street, Suite 1830
Salt Lake City, UT 84101
Phone: 401.401.1608
Email: mgehret@atllp.com

Andrew D. Campbell
Stephen J. Siegel
Julie Johnston-Ahlen
Elizabeth C. Wolicki
ARMSTRONG TEASDALE LLP
100 North Riverside Plaza, Suite 1500
Chicago, IL 60606
Phone: 312.516.5651
Email: acampbell@atllp.com
Email: ssiegel@atllp.com
Email: jja@atllp.com
Email: ewolicki@atllp.com

ATTORNEYS FOR EXP WORLD HOLDINGS, INC.

Tyson Ketchum
ARMSTRONG TEASDALE LLP
2345 Grand Boulevard, Suite 1500
Kansas City, MO 64108
Phone: 816.221.3420
Facsimile: 816.221.0786
Email: kclinkinbeard@atllp.com
Email: tketchum@atllp.com

Michael A. Gehret
ARMSTRONG TEASDALE LLP
222 S. Main Street, Suite 1830
Salt Lake City, UT 84101
Phone: 401.401.1608
Email: mgehret@atllp.com

Andrew D. Campbell
Stephen J. Siegel
Julie Johnston-Ahlen
Elizabeth C. Wolicki
ARMSTRONG TEASDALE LLP
100 North Riverside Plaza, Suite 1500
Chicago, IL 60606
Phone: 312.516.5651
Email: acampbell@atllp.com
Email: ssiegel@atllp.com
Email: jja@atllp.com
Email: ewolicki@atllp.com

ATTORNEYS FOR EXP REALTY, LLC

Brian J. Madden
WAGSTAFF & CARTMELL
4740 Grand Avenue, Suite 300
Kansas City, MO 64112
Phone: 816.701.1100
Facsimile: 816.531.2372
Email: bmadden@wcllp.com

Eyitayo St. Matthew-Daniel
PAUL WEISS RIFKIND WHARTON & GARRISON LLP
1285 Avenue of the Americas
New York, NY 10019
Phone: 212.373.3229
Email: tstmatthewdaniel@paulweiss.com

William A. Isaacson
Bryon P. Becker
Karen L. Dunn
Martha Goodman
PAUL WEISS RIFKIND WHARTON & GARRISON LLP
2001 K Street NW
Washington, DC 20006
Phone: 202.223.7313
Email: wisaacson@paulweiss.com
Email: bpbecker@paulweiss.com
Email: kdunn@paulweiss.com
Email: mgoodman@paulweiss.com

ATTORNEYS FOR REDFIN CORPORATION

William D. Beil
GM LAW PC
1200 Walnut Street, Suite 2000
Kansas City, MO 64106
Phone: 816.471.7700
Facsimile: 816.471.2221
Email: billb@gmlawpc.com

Dylan I. Ballard
Michael W. Scarborough
VINSON & ELKINS
555 Mission Street, Suite 2000
San Francisco, CA 94105
Phone: 415.979.6900
Email: dballard@velaw.com
Email: mscarborough@velaw.com

Stephen M. Medlock
Adam L. Hudes
VINSON & ELKINS
2200 Pennsylvania Avenue NW, Suite 500 West
Washington, DC 20037
Phone: 202.639.6578
Email: smedlock@velaw.com
Email: ahudes@velaw.com

ATTORNEYS FOR WEICHERT REALTORS

James Dale Lawrence
BRYAN CAVE LEIGHTON PAISNER LLP
3800 One Kansas City Place
1200 Main Street
Kansas City, MO 64105
Phone: 816.374.3378
Facsimile: 816.855.3378
Email: jdlawrence@bclplaw.com

Lindsay Sklar Johnson
BRYAN CAVE LEIGHTON PAISNER LLP
1201 W. Peachtree Street, 14th Floor
Atlanta, GA 30309
Phone: 404.572.6732
Email: lindsay.johnson@bclplaw.com

Emilee Hargis
BRYAN CAVE LEIGHTON PAISNER, LLP
211 North Broadway, Suite 3600
St. Louis, MO 63102
Phone: 618.973.6283
Email: emilee.hargis@bclplaw.com

Timothy R. Beyer
BRYAN CAVE LEIGHTON PAISNER LLP
1700 Lincoln Street, Suite 4100
Denver, CO 80203
Phone: 303.861.7000
Email: tim.beyer@bclplaw.com

ATTORNEYS FOR UNITED REAL ESTATE

Hannah M. Smith
Robert T. Adams
SHOOK HARDY & BACON LLP
2555 Grand Boulevard
Kansas City, MO 64108
Phone: 816.474.6550
Email: hsmith@shb.com
Email: rtadams@shb.com

Seth P. Waxman
Karin Dryhurst
Claire Bergeron
WILMERHALE
2100 Pennsylvania Avenue NW
Washington, DC 20037
Phone: 202.663.6800
Email: seth.waxman@wilmerhale.com
Email: karin.dryhurst@wilmerhale.com
Email: Claire.bergeron@wilmerhale.com

David Z. Gringer
Emily Barnet
WILMERHALE
7 World Trade Center, 250 Greenwich Street
New York, NY 10007
Phone: 212.230.8864
Email: david.gringer@wilmerhale.com
Email: Emily.barnet@wilmerhale.com

ATTORNEYS FOR HANNA HOLDINGS, INC.

Elizabeth A. Vasseur-Browne
COOLING & HERBERS, PC
2400 City Center Square
1100 Main Street
Kansas City, MO 64105
Phone: 816.474.0777
Facsimile: 816.472.0790
Email: lbrowne@coolinglaw.com

Timothy G. Parilla
Molly K. McGinley
Robert J. Palmersheim
HONIGMAN LLP
155 N. Wacker Drive, Suite 3100
Chicago, IL 60606
Phone: 312.429.6026
Email: tparilla@honigman.com
Email: mmcginley@honigman.com
Email: rpalmersheim@honigman.com

ATTORNEYS FOR AT WORLD PROPERTIES, LLC

Jennifer B. Wieland
BERKOWITZ OLIVER LLP
2600 Grand Boulevard, Suite 1200
Kansas City, MO 64108
Phone: 816.627.0266
Facsimile: 816.561.1888
Email: jwieland@berkowitzoliver.com

Stephen McIntyre
O'MELVENY & MEYERS LLP
400 South Hope Street, 18th Floor
Los Angeles, CA 90071
Phone: 213.430.8382
Email: smcintyre@omm.com

David Marroso
Craig P. Bloom
O'MELVENY & MEYERS LLP
1999 Avenue of the Stars, 8th Floor
Los Angeles, CA 90067
Phone: 310.246.8469
Email: dmarroso@omm.com
Email: cbloom@omm.com

ATTORNEYS FOR THE REAL BROKERAGE INC.

Jennifer B. Wieland
BERKOWITZ OLIVER LLP
2600 Grand Boulevard, Suite 1200
Kansas City, MO 64108
Phone: 816.627.0266
Facsimile: 816.561.1888
Email: jwieland@berkowitzoliver.com

Stephen McIntyre
O'MELVENY & MEYERS LLP
400 South Hope Street, 18th Floor
Los Angeles, CA 90071
Phone: 213.430.8382
Email: smcintyre@omm.com

David Marroso
Craig P. Bloom
O'MELVENY & MEYERS LLP
1999 Avenue of the Stars, 8th Floor
Los Angeles, CA 90067
Phone: 310.246.8469
Email: dmarroso@omm.com
Email: cbloom@omm.com

ATTORNEYS FOR REAL BROKER, LLC

Amanda Pennington Ketchum
Ann Lindner Saghir
Michael J. Judy
DYSART TAYLOR McMONIGLE BRUMITT & WILCOX
PC
700 W. 47th Street, Suite 410
Kansas City, MO 64112
Phone: 816.931.2700
Facsimile: 816.931.7377
Email: aketchum@dysarttaylor.com
Email: asaghir@dysarttaylor.com
Email: mjudy@dysarttaylor.com

Ann O'Brien
Christopher M. Loveland
Leo Caseria
SHEPPARD MULLIN RICHTER & HAMPTON LLP
2099 Pennsylvania Avenue NW, Suite 100
Washington, DC 20006-6801
Phone: 202.747.3340
Email: aobrien@sheppardmullin.com
Email: cloveland@sheppardmullin.com
Email: lcaseria@sheppardmullin.com

Helen C. Eckert
SHEPPARD MULLIN RICHTER & HAMPTON LLP
4 Embarcadero Center
San Francisco, CA 94111
Phone: 415.774.3233
Email: heckert@sheppardmullin.com

ATTORNEYS FOR REALTY ONE GROUP, INC.

Christopher M. Harper
John L. Mullen
FRANKE, SCHULTZ & MULLEN
8900 Ward Parkway
Kansas City, MO 64114
Phone: 816.421.7100
Facsimile: 816.421.7915
Email: charper@fsmlawfirm.com
Email: jmullen@fsmlawfirm.com

Cameron Nicholas Regnery
Jacob Madsen
FREEMAN MATHIS & GARY, LLP
100 Galleria Parkway, Suite 1600
Atlanta, GA 30339
Phone: 470.228.3500
Email: cameron.regnery@fmglaw.com
Email: jacob.madsen@fmglaw.com

Matthew Foree
Scott Anderson
FREEMAN MATHIS & GARY, LLP
100 Galleria Pkwy, Suite 1600
Atlanta, GA 30339
Phone: 770.818.4245
Email: mforee@fmglaw.com
Email: scott.anderson@fmglaw.com

ATTORNEYS FOR HOMESMART INTERNATIONAL, LLC

/s/ Marc E. Kasowitz

**ATTORNEY FOR DEFENDANTS
DOUGLAS ELLIMAN INC. AND DOUGLAS
ELLIMAN REALTY, LLC**